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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,334	09/20/2006	Jonas Jungkvist	KADZ 200047	3144
27885	7590	09/03/2008	EXAMINER	
FAY SHARPE LLP			SZEKELY, PETER A	
1100 SUPERIOR AVENUE, SEVENTH FLOOR				
CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			09/03/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/569,334	JUNGKVIST ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Peter Szekely	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 February 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 February 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/21/06</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Priority***

1. The claim for foreign priority should be described in the first paragraph of the specification.

### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 9, line 7, the word “talc” is misspelled.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 6, 11, 17 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The claims contain improper Markush language. When the last conjunction is “and” or “and/or” proper Markush language is “selected from the group consisting of”.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1796

7. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nomura et al. 5,013,773, Davidson et al. 5,091,453, Okimura et al. 5,489,648, Aoyama et al. 5,733,975 or Feng et al. 6,077,892.

8. Nomura et al. disclose thermoplastic resin in claim 1, polyolefins in claims 2-4 and 6, colloidal calcium carbonate in column 4, line 55 and silicone oil in column 5, lines 41-42. Davidson et al. teach ethylene copolymer, silicon fluid or gum and filler in claim 1, copolymers in claims 3 and 5, calcium carbonate in claims 2, 4 and the total composition in claim 9 and the composition with a calcium carbonate having an average particle size of 0.7 microns in Table 1, Example 1, while using the composition for wire and cable is shown in column 4, lines 36-42. Okimura et al. recite polyolefin, modified polyolefin, core shell polymer and filler in claim 19, composition of the modified polyolefin in claim 1, composition of the polyolefin in column 7, lines 37-55, composition of the core-shell polymer in column 9, line 3 and column 10, lines 44-45 and calcium carbonate with its particle size in column 16, lines 60-65 and Table 3. Aoyama et al. display polyolefin, core-shell polymer and filler in claim 1, calcium carbonate in claim 12, composition of the polyolefin in column 4, lines 12-25, composition of the core-shell polymer in column 5, line 26 and column 6, lines 66-67 and particle size in Example 6. Feng et al. reveal polyolefin and organosilicone compound in claim 1, calcium carbonate with its particle size and concentrations in Example 1. Applicants' claims are not novel.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al. 5,013,773, Davidson et al. 5,091,453, Okimura et al. 5,489,648, Aoyama et al. 5,733,975 or Feng et al. 6,077,892, in view of Hayashi et al. 6,020411.

12. The primary references have been described already. Hayashi et al. show applicants' composition in the Table. Although it is not known what fraction of the talc and calcium carbonate have applicants' claimed particle size, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to use the compositions of the primary references in a wire and cable formulation, since the ingredients are identical and to select applicants' claimed compounds from a list of

equivalents in the primary references.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 6:10 a.m.-4:40 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter Szekely/  
Primary Examiner, Art Unit 1796

/P. S./  
Primary Examiner, Art Unit 1796  
8/31/08